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**DEPARTMENT OF COMMERCE**

**National Oceanic and Atmospheric  
Administration**

**50 CFR Part 642**

**[Docket No. 60600-6100]**

**Coastal Migratory Pelagic Resources  
of the Gulf of Mexico and the South  
Atlantic**

**AGENCY:** National Marine Fisheries  
Service (NMFS), NOAA, Commerce.

**ACTION:** Proposed rule; preseason  
adjustment.

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**SUMMARY:** The Secretary of Commerce issues a preliminary preseason adjustment of the total allowable catch (TAC), permitting requirements, and bag limits for the Gulf migratory group of king mackerel in accordance with the framework procedure under Amendment 1 to the fishery Management Plan for the Coastal Migratory Pelagic Resources of the Gulf of Mexico and the South Atlantic (FMP). This notice proposes (1) reductions in TAC and allocations for the Gulf migratory group of king mackerel based on recent catch data; (2) changes in the requirements for permits for commercial fishing vessels; and (3) provisions for reducing bag limits for recreational fishermen to zero (0). The intended effects are to protect the Gulf migratory group of king mackerel and still allow a catch by the important recreational and commercial fisheries that are dependent on this species, to allow charter vessels to fish commercially when not under charter, and to ensure that the recreational allocation is not exceeded.

**DATE:** Comments must be received on or before June 24, 1986.

**ADDRESSES:** Comments on the rule and supplemental regulatory impact review are invited and should be sent to Donald W. Geagan, Southeast Region, National Marine Fisheries Service, 9450 Koger Boulevard, St. Petersburg, Florida 33702.

Comments on the collection of information requirement are invited and should be addressed to the Office of Information and Regulatory Affairs of OMB, Washington, DC 20503, Attention: Desk Officer for NOAA.

**FOR FURTHER INFORMATION CONTACT:** Donald W. Geagan, 813-893-3722.

**SUPPLEMENTARY INFORMATION:** The king mackerel fishery is regulated under the FMP and its final regulations (50 CFR Part 642). An amendment to the FMP (Amendment 1) was prepared jointly by the Gulf of Mexico and South Atlantic Fishery Management Councils (Councils) and implemented September 22, 1985 (50 FR 34843, August 28, 1985).

The Councils recommended a TAC for the Gulf migratory group of king mackerel at 5.2 million pounds and this was implemented by emergency regulation (51 FR 8326, March 11, 1986), which resulted in the closure of the commercial fishery for this group on March 12, 1986, after its quota was exceeded (51 FR 9013).

In conformance with stock assessment procedures at § 642.27, the Councils convened the Stock Assessment Panel (Panel), reviewed its report, and made recommendations to the Regional Director for changes in the TAC, quotas, and permits for the Gulf group of king mackerel.

The Councils recommended that TAC for the fishing year of July 1, 1986, through June 30, 1987, be set at 2.9 million pounds, which is at the upper limit of the range of the acceptable biological catch (ABC) provided for by the Panel. This action is expected to allow the spawning stock to recover in the next decade to between 18 and 112 percent of the adequate stock levels of 1975-78.

In accordance with the provisions of the FMP, the TAC is allocated to users and areas by prescribed formula. The recreational fishery is allocated 80 percent of the TAC (1.97 million pounds), and the commercial fishery is allocated 32 percent (0.93 million pounds). The commercial allocation is subdivided into three quotas with 0.05 million pounds for the purse seine fishery, 0.60 million pounds for the eastern geographic zone and 0.27 million pounds for the western geographic zone. The commercial fishery quota is regulated under § 642.21(a).

The recreational fishery quota is regulated under § 642.21(b) and bag limits under § 642.28. When the quota of 1.97 million pounds is reached or projected to be reached, the bag limit will be reduced to zero (0) by notice action in the Federal Register. Prior to publication of such notice action, the Regional Director will consult with the Councils and advise them of the data on which the bag limit reduction to zero (0) is based.

The recreational bag limit for the Gulf group of king mackerel specified at § 642.28(a)(1) will remain unchanged because of the expected reduction in availability of fish and total effort. Bag limits at the opening of the season will remain at three king mackerel per person per trip for anglers, excluding captain and crew, or two king mackerel per person per trip including the captain and crew, whichever is the greater for persons fishing on charter boats. For persons fishing from other recreational vessels the bag limit will remain at two king mackerel per person per trip.

Vessels fishing commercially for either migratory group will continue to be required to obtain a permit annually and may do so providing the owner or operator has derived at least ten percent of his earned income from commercial fishing in the previous calendar year.

Prior to this regulatory action, charter boats fishing the Gulf migratory group of king mackerel have been ineligible to obtain commercial permits. The rationale was that charter anglers on permitted vessels could exceed bag limits, and the catch would not be reported against the commercial quota. The catch would exceed bag limit estimates causing TAC to be exceeded. A mechanism to allow charter boats to fish under bag limits, when under charter, was subsequently developed and adopted for the Atlantic migratory group, and extension of this authority to charter boats fishing the Gulf group would make the regulations equitable and consistent. Charter vessels fishing off Louisiana and Florida have traditionally engaged in commercial fishing, when not under charter.

Charter boats may obtain a permit to fish commercially if they meet the earned income requirement of ten percent for commercial fishing and provided they adhere to bag limits while under charter. A charter vessel with a commercial permit will be considered to be under charter if more than three persons are aboard including the captain and crew. Permits to fish on the commercial quotas will be issued by the Regional Director at no cost and will be available 60 days prior to the beginning of the season. Permits may be issued at

other times for newly registered vessels or in cases of demonstrated hardship. Also, permits are nontransferable. The issuance of commercial permits for charter vessels will assist in determining the distribution of the lowered TAC between commercial and recreational fishermen and will be an aid in evaluating the status of the catch of each user group. The minimum income percentage requirement for a permit for recreational fishermen also will prevent recreational fishermen from obtaining permits and thereby circumventing the bag limitations.

#### Other Matters

This action is taken under the authority of 50 CFR 642.27 and is taken in compliance with Executive Order 12291. This action is covered by the supplemental regulatory impact review (SRIR) which concluded that the authorizing regulations could have a significant economic impact on a substantial number of small entities. Comments on the SRIR are invited and should be sent to the ADDRESS listed above. A copy is also available from the ADDRESS listed above.

This rule revises a collection of information requirement subject to the Paperwork Reduction Act (PRA), which has been approved by the Office of Management and Budget (OMB) under OMB control number 0645-0097. A request to collect this information has been submitted to OMB for review under section 3504(h) of the PRA. Comments on the collection of information requirements are invited (See ADDRESSES).

#### List of Subjects in 50 CFR Part 642

Fisheries, Fishing, Reporting and recordkeeping requirements.

Dated: June 4, 1986.

Carleen J. Blondin,  
Deputy Assistant Administrator for Fisheries Resource Management, National Marine Fisheries Service.

For reasons set forth in the preamble, 50 CFR Part 642 is proposed to be amended as follows:

#### PART 642—COASTAL MIGRATORY PELAGIC RESOURCES OF THE GULF OF MEXICO AND THE SOUTH ATLANTIC

1. The authority citation for Part 642 continues to read as follows:

Authority: 16 U.S.C. 1801 *et seq.*

2. Section 642.1 is amended by revising paragraph (b) to read as follows:

**§ 642.1 Purpose and scope.**

(b) This part regulates fishing for coastal migratory pelagic fish by fishing vessels of the United States off the Atlantic Coastal States south of the Virginia-North Carolina border and in the Gulf of Mexico.

3. Section 642.2 is amended by revising the definition of "Charter vessel" to read as follows:

**§ 642.2 Definitions.**

*Charter vessel* (includes headboats) means a boat or vessel whose captain or operator is licensed by the U.S. Coast Guard to carry paying passengers and whose passengers fish for a fee. Charter vessels with permits to fish on the commercial allocation for king mackerel will be considered under charter if there are more than three (3) persons aboard including captain and crew.

4. Section 642.4 is amended by revising paragraphs (a) (1) and (2), and (b)(6) to read as follows:

**§ 642.4 Permits and fees.**

(a) *Applicability.* (1) Owners or operators of fishing vessels which fish for king mackerel under the commercial quotas in § 642.21(a) are required to obtain an annual vessel permit.

(2) Owners or operators of charter vessels may obtain a permit to fish under the commercial allocations for king mackerel provided they adhere to bag limits while under charter.

(b) \* \* \*

(6) A sworn statement by the owner or operator certifying that at least 10 percent of his or her earned income was derived from commercial fishing during the preceding calendar year (January 1 through December 31);

**§ 642.7 [Amended]**

5. Section 642.7 is amended by revising paragraph (a)(18), adding a new paragraph (a)(27), deleting paragraph (a)(28), and renumbering paragraphs (a)(29) through (31) as (a)(28) through (30) to read as follows:

(a) \* \* \*

(18) Fish for, retain, or have in possession in the FCZ aboard a vessel permitted to fish under § 642.4 king mackerel from a migratory group or allocation zone after the commercial quota for that migratory group or allocation zone specified in § 642.21(a) has been reached and closure has been invoked as specified in § 642.22(a) (Table 2);

(27) Possess king mackerel harvested in the FCZ under a recreational allocation set forth in § 642.21(b) after the bag limit for that recreational allocation has been reduced to zero (0) as specified in § 642.22(b);

6. Section 642.21 is amended by revising paragraphs (a), (b), and (c), and redesignating existing paragraph (f) as (f) to read as follows:

**§ 642.21 Quotas and allocations.**

(a) *Commercial quotas for king mackerel.* (1) The commercial allocation for the Gulf migratory group of king mackerel is 0.93 million pounds per fishing year. This allocation is divided into quotas as follows:

(i) 0.50 million pounds for the eastern allocation zone;

(ii) 0.27 million pounds for the western allocation zone; and

(iii) 0.16 million pounds for purse seines (see Figure 2 and paragraph (f) of this section for description of allocation zones).

(2) The commercial allocation and quota for the Atlantic migratory group of king mackerel is 3.50 million pounds per fishing year.

(3) A fish is counted against the commercial quota or allocation when it is first held (Table 2).

(b) *Recreational allocations for king mackerel.* (1) The recreational allocation for the Gulf migratory group of king mackerel is 1.97 million pounds per fishing year.

(2) The recreational allocation for the Atlantic migratory group of king mackerel is 6.09 million pounds per fishing year.

(c) *Purse seine quota for king mackerel.* (1) The total harvest of king mackerel by purse seines in the Gulf of Mexico is limited to 0.06 million pounds each fishing year.

(2) The total harvest of king mackerel by purse seines from the Atlantic Ocean is limited to 100,000 pounds each fishing year.

(3) King mackerel harvested by purse seines are counted in the commercial allocations and quotas specified in paragraph (a) of this section (Table 2).

7. Section 642.22 is amended by revising paragraph (b) to read as follows:

**§ 642.22 Closure.**

(b) The Secretary, after consulting with the Councils and by publication of a notice action in the Federal Register, may reduce the bag limit for the recreational fishery for king mackerel in the Atlantic or Gulf migratory group to zero (0) when the allocation for that group under § 642.21(b) is reached or is projected to be reached. After such reduction, all king mackerel caught must be returned to the sea immediately and possession of king mackerel aboard recreational vessels is prohibited.

8. Section 642.28 is amended by revising paragraph (c) to read as follows:

**§ 642.28 Bag and possession limits.**

(c)(1) After a closure under § 642.22(a) is invoked for the allocations and quotas specified in § 642.21(a), vessels permitted under § 642.4 may not fish for king mackerel in the zone(s) for that allocation or quota under the bag limits specified in paragraph (a) of this section except as provided for under paragraph (c)(2).

(2) Charter vessels permitted to fish under the commercial quotas for king mackerel may fish under the bag limit specified in paragraph (a) of this section provided they are under charter and the recreational fishing allocation for the respective migratory group of king mackerel under § 642.21(b) has not been closed under § 642.21(b).

9. Table 2 of Appendix A is amended in its entirety to read as follows:

TABLE 2—KING AND SPANISH MACKEREL QUOTAS AND TOTAL ALLOWABLE CATCH (TAC) FOR WHICH CLOSURES ARE INVOKED FOR SPECIFIC MIGRATORY GROUPS OR ALLOCATION ZONES OR GEAR TYPES<sup>1</sup>

Migratory group(s)	Fishing year	Gear	Allocation/Quota	Fishing year quota/TAC (million pounds)	Prohibition on sale and/or catch invoked when—
King Mackerel Atlantic Commercial	1 April-31 March	All types	Eastern zone	5.50	Sales from migratory group are projected to reach quota.
Atlantic Commercial	1 April-31 March	All types	Atlantic Ocean	0.40	Landings from migratory group are projected to reach quota.
Atlantic Recreational	1 April-31 March	All types	Eastern zone	5.00	Catchings from migratory group are projected to reach allocation.

TABLE 2.—KING AND SPANISH MACKEREL QUOTAS AND TOTAL ALLOWABLE CATCH (TAC) FOR WHICH CLOSURES ARE INVOKED FOR SPECIFIC MIGRATORY GROUPS OR ALLOCATION ZONES OR GEAR TYPES <sup>1</sup>—Continued.

Migratory group(s)	Fishing year	Gear	Allocation zone	Fishing year quota TAC (million pound)	Prohibition on sale and/or catch invoked when—
Gulf Commercial.	1 July–30 June.....	All types.....	Western zone <sup>2</sup> .	0.27	Sales from migratory group and zone are projected to reach quota.
Gulf Commercial.	1 July–30 June.....	PS <sup>3</sup> .....	Eastern zone <sup>2</sup> .	0.60	Sales from migratory group and zone are projected to reach quota.
Gulf Commercial.	1 July–30 June.....	All types.....	Entire range <sup>4</sup> .	0.05	Landings from migratory group are projected to reach quota.
Gulf Recreational.	1 July–30 June.....	All types.....	Entire range <sup>4</sup> .	1.97	Landings from migratory group are projected to reach quota.
Spanish Mackerel:	1 January–31 December.	All types.....	GA <sup>5</sup> .....	27.00	When landings are projected to reach TAC.
	1 January–31 December.	PS <sup>3</sup> .....	Atlantic Ocean.	0.30	When landings are projected to reach quota.
	1 January–31 December.	PS <sup>3</sup> .....	Gulf of Mexico.	0.30	When landings are projected to reach quota.

<sup>1</sup> See Figure 2 for delineation of migratory group ranges and allocation zones.

<sup>2</sup> The range of migratory groups varies by season (§ 642.29)—see Figure 2.

<sup>3</sup> See Figure 2 and § 642.21(a).

<sup>4</sup> See § 642.21(a).

<sup>5</sup> Puerto Rico.

<sup>6</sup> Gulf & Atlantic.

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